

demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On December 29, 1997, the Office of the Attorney General provided a legal opinion that states, with regard to the Privilege law: Virginia's Immunity law, Va. Code section 10.1-1199, provides that "[t]o the extent consistent with requirements imposed by federal law," (emphasis added) any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. Thus, EPA has determined that Virginia's Privilege and Immunity legislation will not preclude the Commonwealth from enforcing its NSR program consistent with the CAA's requirements.

VI. Proposed Action

EPA is proposing limited approval of the revisions to the Virginia SIP NSR regulations submitted on November 9, 1992 because such approval would strengthen the SIP so that it meets the NSR requirements of the CAA as discussed herein. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this document. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small

entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

The Administrator's decision to approve or disapprove Virginia's NSR SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 9, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5984-2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete Anaconda Aluminum/Milgo Electronics Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Anaconda Aluminum/Milgo Electronics Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before: April 22, 1998.

ADDRESSES: Comments may be mailed to: Richard D. Green, Acting Director, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 100 Alabama Street S.W., Atlanta, Georgia 30303-3104.

Comprehensive information on this Site is available through the Region 4 public docket, which is available for viewing at the Anaconda Aluminum/Milgo Electronics Site information

repositories at two locations. Locations, contacts, phone numbers and viewing hours are:

U.S. EPA Record Center, attn: Phyllis Craig, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, Georgia 30303-3104, Phone: (404) 562-8881, Hours: 8:00 a.m. to 4:00 p.m., Monday through Friday, By Appointment Only

North Central Library, 10750 SW 211th Street, Miami, Florida 33189, Phone: (305) 693-4541, Hours: 1:00 a.m. to 6:00 p.m., Monday, 9:30 a.m. to 6:00 p.m., Tuesday and Wednesday, 11:30 a.m. to 8:00 p.m., Thursday, 8:30 a.m. to 5 p.m., Saturday

FOR FURTHER INFORMATION CONTACT: John Zimmerman, U.S. EPA Region 4, Mail Code: WD-SSMB, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, Georgia 30303-3104, (404) 562-8936.

SUPPLEMENTARY INFORMATION:

Table of Contents:

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

I. Introduction

The EPA Region 4 announces its intent to delete the Anaconda Aluminum/Milgo Electronics Site, Miami, Florida, from the NPL, which constitutes Appendix B of the NCP, 40 CFR Part 300, and requests comments on this deletion. EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA proposes to delete the Anaconda Aluminum/Milgo Electronics Site located on the 3600 block of N.W. 76th Street, in Miami, Dade County, Florida from the NPL.

EPA will accept comments concerning this Site for thirty days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how this Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the

NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from, or re-categorized on, the NPL where no further response is appropriate. In making this determination, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

CERCLA Section 121(c), 42 U.S.C. 9621(c), provides in pertinent part that:

If the President selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the Site, the President shall review such remedial action no less often than each 5 years after the initiation of such remedial action to assure that human health and the environment are being protected by the remedial action being implemented* * *.

EPA policy interprets this provision to apply only to those sites where any remaining hazardous substances are below the minimum levels that will allow for unlimited use and unrestricted exposure while continuing to be protective of public health and the environment. On that basis, for reasons set forth below, the statutory requirement has been satisfied at this Site, and five year reviews and operation and maintenance activities are not required. However, in the event new information is discovered which indicates a need for further action, EPA may initiate appropriate remedial actions. In addition, whenever there is a significant release from a site previously deleted from the NPL, that site may be restored to the NPL without application of the Hazardous Ranking System. Accordingly, the Site is qualified for deletion from the NPL.

III. Deletion Procedures

EPA will accept and evaluate public comments before making a final decision on deletion. The following procedures were used for the intended deletion of the Site:

1. FDEP has concurred with the deletion decision;
2. Concurrently with this Notice of Intent, a notice has been published in local newspapers and has been distributed to appropriate federal, state and local officials and other interested

parties announcing a 30-day public comment period on the proposed deletion from the NPL; and

3. The Region has made all relevant documents available at the information repositories.

The Region will respond to significant comments, if any, submitted during the comment period.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect any deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary, if any, will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the intention to delete this Site from the NPL.

The Anaconda Aluminum/Milgo Electronics Site in Dade County is approximately three acres of land along the north and south sides of N.W. 76th Street in the 3600 block. The portion on the north is the Milgo property and the portion on the south is the Anaconda Aluminum property.

Anaconda Aluminum Company operated an aluminum anodizing facility on the Anaconda property from approximately 1957 to 1977. The Atlantic Richfield Company acquired the Anaconda Aluminum Company in 1977 and operated the facility until February 1982, when all processes ended and the Anaconda property was sold to the current owner, Dade Metals Corporation in October 1983. The property was used for storing lumber and rebar by a tenant, JRD Forming Company. JRD is no longer a tenant and the property is currently not in use. The aluminum anodizing operations utilized an electrochemical processing acid and a caustic base to produce a film of protective oxide on aluminum. Wastewater from the process was discharged into an onsite percolation pit, permitted by the Metropolitan Dade County Department of Environmental Resources Management. The percolation pit was filled in when the facility ceased operations.

Milgo Electronics, producers of communications and data processing equipment, conducted electroplating, manufacturing, painting, and packaging operations at the Milgo property from 1961 until 1984. Wastewater from

chemical rinses, metal plating, and spray coating were treated onsite in a treatment system designed to precipitate dissolved metals from the wastewater. The precipitated sediment was removed by a tank truck and the remaining liquid was discharged to a drainfield on the property. Racal-Datacom, Inc. became the successor to Milgo Electronics Corporation. The Milgo facility was closed in 1984 and 1985 in accordance with a closure plan approved by the Florida Department of Environmental Regulation (renamed the Florida Department of Environmental Protection). As part of the closure, the drainfield, batch waste holding tank, and all process vessels were drained and their contents disposed of at approved sites.

Preliminary and expanded site investigations determined that there was potential impact to the environment by inorganic contaminants, in particular chromium, lead, and aluminum. The Site was placed on the NPL in August of 1990. An Administrative Order by Consent for the Remedial Investigation/Feasibility Study (RI/FS) was signed on July 31, 1992 and later amended in November of 1992. Additional sampling was conducted prior to the RI/FS and based upon these results, a removal action was conducted in 1993 to remove a significant portion of the contamination at the Site. The removal activities addressed soil and treatment structures known to contain elevated levels of metals and organics and included; removal of liquids and sludge from the settling tank, drainfield, batch tank, and underground circular structure and sump with the liquid and sludge being pumped into 55 gallon drums for disposal at an approved offsite location, the testing of the sump (no leakage was observed other than the exit pipe), decontamination and removal/filling of structures with cement slurry, and finally excavation of the drainfield to a 6-7 foot depth below land surface in a 50 foot long by 7 foot wide trench. Post-removal sampling results indicated that the removal was successful.

In 1993, a Remedial Investigation was performed mainly on the remaining areas of potential contamination not addressed during the removal action. Over 100 samples of soil, groundwater, and sediment were collected. A Baseline Risk Assessment was conducted as part of this RI to evaluate the public health and environmental problems that could result if the Site were not remediated.

The results of the RI and the Risk Assessment indicated that the 1993 removal of contaminated soils at the Anaconda Aluminum/Milgo Electronics

Site reduced the risk from exposure to Site-related contaminants in the soils to levels which are protective of human health and the environment.

Groundwater contaminants which could be directly attributed to the Site were below concentrations which exceeded health-based levels. Two volatile organic compounds (VOCs) that were found during the RI in the deep wells have been cited as an area-wide groundwater condition.

On November 22, 1994, EPA signed a Record of Decision (ROD) for the Anaconda Aluminum/Milgo Electronics Site. The ROD called for No Further Action at the Site. However, to verify that the VOCs detected in the groundwater are not indicative of a Site-related release, EPA required that four post-RI supplemental sampling events would take place. This post-RI sampling, which was completed last year, confirmed that no significant risk to public health or the environment is posed by the Site. In three out of the four sampling events, the contaminants found during the RI were no longer present at levels above drinking water standards.

Due to the removal of contaminated soils, hazardous substances have been removed from the Site so as to allow for unlimited use and unrestricted exposures within the Site, the Site is protective of public health and the environment, and no further remedial action is needed at the Site. Accordingly, EPA will not conduct operation and maintenance activities or five-year reviews at this Site.

EPA, with concurrence of FDEP, has determined that all appropriate actions at the Anaconda Aluminum/Milgo Electronics Site have been completed, and that no further remedial action is necessary. Therefore, EPA is proposing deletion of the Site from the NPL.

Dated: March 16, 1998.

John H. Hankinson, Jr.,

Regional Administrator, USEPA Region 4.

[FR Doc. 98-7307 Filed 3-20-98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-34; RM-9233]

Radio Broadcasting Services; Buckhannon, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by J&K Broadcasting, Inc., proposing the allotment of Channel 238A at Buckhannon, West Virginia, as the community's third local commercial FM transmission service. Channel 238A can be allotted to Buckhannon in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 238A at Buckhannon are North Latitude 38-59-30 and West Longitude 80-13-48.

DATES: Comments must be filed on or before May 4, 1998, and reply comments on or before May 19, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Timothy E. Welch, Esq., Hill & Welch, 1330 New Hampshire Ave., NW., Suite 113, Washington, DC 20036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-34, adopted March 4, 1998, and released March 13, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.